

D.T.E. 00-101

August 9, 2001

Investigation by the Department of Telecommunications and Energy of Verizon New England, Inc. d/b/a Verizon Massachusetts' Sixth Annual Price Cap Compliance Filing, filed with the Department on October 2, 2000, tariff revisions to M.D.T.E. No. 10, to become effective December 15, 2000.

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I. INTRODUCTION

On October 2, 2000, Verizon New England, Inc. d/b/a Verizon Massachusetts (“Verizon” or “Company”) filed revisions to its tariff M.D.T.E. No. 10 with the Department of Telecommunications and Energy (“Department”) in compliance with NYNEX Price Cap, D.P.U. 94-50 (1995). The filing constituted Verizon’s sixth and final annual filing under price cap regulation. The Department docketed the matter as D.T.E. 00-101. The Company proposed that the tariff revisions become effective on December 15, 2000, unless suspended or disallowed by the Department.

The Company’s filing proposed a \$38.77 million reduction in overall revenue, representing a 2.09 percent reduction in intrastate revenues. The reduction included a \$34.4 million decrease for residential customers, and a \$4.37 million decrease for business customers.

Pursuant to notice duly issued, the Department held a public hearing and procedural conference at its offices on December 6, 2000, to afford the public an opportunity to comment on the Company’s Compliance Filing. The Attorney General of the Commonwealth intervened as of right. G.L. c. 12, § 11E. The Department granted the petitions to intervene of AT&T Communications of New England, Inc. (“AT&T”), New England Public Communications Council, Inc. (“NEPCC”), and WorldCom, Inc. (“WorldCom”).¹

¹ In the Order of Notice in this proceeding, the Department set December 4, 2000 as the deadline for petitions to intervene in this matter. On December 20, 2000, the Department received a Late-filed Petition to Intervene of RNK Inc. d/b/a RNK Telecom. Department rules require that a petitioner demonstrate good cause for late-filing. 220 C.M.R. § 1.01(4); Massachusetts-American Water Company, D.P.U. 95-118, at 3-4 (1996).

(continued...)

On December 14, 2000, the Department issued an Order in which it declined to suspend the tariff, and the proposed tariff revisions went into effect on December 15, 2000. Verizon Sixth Annual Price Cap Compliance Filing, D.T.E. 00-101, Interlocutory Order on Suspension (December 14, 2000) (“Interlocutory Order on Suspension”). In the Order, the Department stated that further investigation of the Company’s price floor calculations is warranted. Id. at 9.

At the procedural conference held on December 6, 2000, the Hearing Officer set a date to receive requests for evidentiary hearings in this matter. No party requested evidentiary hearings.² On March 21, 2001, Verizon, the Attorney General, and AT&T filed initial briefs. On April 4, 2001, Verizon filed a reply brief.

On May 1, 2001, Verizon submitted a Supplement to the Sixth Annual Massachusetts Price Cap Compliance Filing (“Supplement”). According to Verizon, the Supplement

¹(...continued)

In its Petition, RNK states that it will be substantially and specifically affected by the issues in this proceeding, but does not give any reason for missing the intervention deadline by more than two weeks. After receiving RNK’s Petition, the Hearing Officer contacted RNK and allowed RNK to make a showing of good cause for late-filing. RNK never responded. Therefore, because RNK fails to demonstrate good cause for late-filing, the Late-filed Petition to Intervene of RNK Inc. is hereby denied.

² The evidentiary record of this proceeding consists of the Compliance Filing and Supplement (filed May 1, 2001; see below); Verizon’s responses to AT&T information requests 1-1 through 1-8 and 2-1 through 2-15; Verizon’s responses to Attorney General information requests 1-1 through 1-10; and the price floor calculations submitted by Verizon as Attachment 1 of its Initial Brief. The Hearing Officer hereby moves the above exhibits into evidence.

reconciles demand estimates for three services contained in the October 2, 2000 filing with actual annual data, and proposes additional rate changes in accordance with that reconciliation. The Hearing Officer invited comments on the Supplement; no comments were received. The price changes proposed in the Supplement went into effect on July 15, 2001.

On March 29, 2001, the Department approved Verizon's compliance filing in a related case, Local Exchange Competition, D.P.U./D.T.E. 94-185-F (2001) ("Price Floor Order"). The approved compliance filing consisted of Verizon's price floor calculations and workpapers. On May 7, 2001, the Department held a technical session in D.T.E. 00-101, to discuss Verizon's compliance in its Sixth Annual filing with the price floor rules approved by the Department on March 29, 2001.

II. SUMMARY OF THE COMPLIANCE FILING

The Company's October 2, 2000, Compliance Filing revises one of its tariffs, M.D.T.E. No. 10.³ Included in the filing and Verizon's Initial Brief are calculations that Verizon contends exceed the Department's price floor requirements (Compliance Filing at Section B, Tab 3). In addition, included in the filing and Supplement are revenues associated with three new services, and the effect of those new revenues (id. at Section B, Tab 1; Supplement at Attachment 1). These constituted the principal challenges to the Compliance Filing by the intervenors, and, thus, are the focus of this Order.

³ For a detailed summary of the rate changes proposed by Verizon in its October 2, 2000 Compliance Filing, see Interlocutory Order on Suspension at 2-3.

III. DISCUSSION

A. Price Floors

The Attorney General states that Verizon should identify the services and rates affected by the price floor recalculation and incorporate or otherwise reconcile any changes to the services or rates (Attorney General Brief at 4). AT&T also raises the issue of Verizon's compliance with the price floor calculations, noting the Department's assurances that it will require Verizon to comply with the Price Floor Order (AT&T Brief at 1).

In its Initial Brief, Verizon asserts that the current price cap filing fully complies with applicable price floor requirements (Verizon Brief at 2). Verizon states that using the March 1, 2001 price floor filing,⁴ it recomputed its price floor demonstration for three services,⁵ and the rates for each of those services satisfy the Department's price floor test (id.).

Verizon attached its price floor calculations for non-premium toll services to its Initial Brief, and these calculations were the subject of discussion at the technical session. Verizon did not propose any changes to services or rates as a result of its price floor calculations. The Department has reviewed Verizon's price floor calculations, and finds that they are in compliance with the Department's price floor rules.

B. Demand Estimates

In its Sixth Annual Price Cap Compliance Filing, Verizon included estimated revenue

⁴ The March 1, 2001 filing was the price floors compliance filing approved on March 29, 2001.

⁵ Business and Residence Toll or MTS; Baystate Metropolitan and Non-Metropolitan; and Business Link.

effects for three new services,⁶ for which it did not have a full year of data needed to identify actual revenue effects. AT&T asks the Department to require Verizon to reconcile demand assumptions for these new services with actual subscription levels when that data is available, and propose any necessary revenue adjustments (AT&T Brief at 1). Verizon responds that its treatment of new services is consistent with past Price Cap filings (Verizon Brief at 3).

As stated above, on May 1, 2001, Verizon filed its Supplement which reconciled estimated demand with actual demand for the three new services, and proposed price changes in light of the updated figures. Those price changes went into effect on July 15, 2001. The Supplement reduced revenues an additional \$560,000 above the revenue reduction that went into effect on December 15, 2000. AT&T did not raise its concerns again after Verizon filed its Supplement. The Department finds that Verizon complied with Department precedent with regard to its treatment of new services. See Second Annual Price Cap Compliance Filing, D.P.U. 96-68, at 26-28 (1997) (requiring Verizon to reconcile its demand estimates with actual subscription levels and to propose any necessary revenue adjustments). Accordingly, the Department approves Verizon's proposed treatment of these new services.

C. Miscellaneous Issues

The Attorney General asks Verizon to reconcile or otherwise explain discrepancies between figures in its October 2, 2000 Compliance Filing, and an August 24, 2000 Price Floors filing, especially the different study periods used (Attorney General Brief at 5). In its

⁶ The three new services are Sound Deal Package, Sensible Minutes Plan, and Local Package.

Reply Brief, Verizon explains the use of different study periods for price cap and price floors calculations, and defended its methodology (Verizon Reply Brief at 2). According to Verizon, changes in revenues for certain services reflected in the different study period data is a function of an increase in competitive activity, not errors in methodology (id.).

The Department provided an opportunity at the technical session for all parties to explore Verizon's price floor calculations once the price floor rules were completed. The Attorney General participated in the technical session. We find that Verizon has adequately explained the differences in data, and there is no further Department action necessary.

AT&T raises two additional issues in its December 2000 comments and in its initial brief. First, AT&T argues that Verizon should not use the rates and quantities of wholesale services not subject to the Price Cap Plan to determine the compliance of services subject to the Plan (AT&T December 4, 2000 Comments at 6). Second, AT&T urges the Department to require Verizon to provide notice to other parties when it introduces new services (which also should include a demonstration of price floor compliance) (id. at 7). In the Interlocutory Order on Suspension, the Department found that these issues raised by AT&T did not warrant suspension of the tariff. Interlocutory Order on Suspension at 10. In addition, AT&T recognizes that the policy considerations raised by these issues can be more appropriately addressed in the Department's investigation to determine the proper regulatory model for Verizon once the price cap expires⁷ (AT&T Brief at 2). The Department agrees with AT&T on the point made in its brief. Therefore, no Department action on these two issues is

⁷ Alternative Regulation, D.T.E. 01-31 (2001).

necessary in this proceeding.

IV. CONCLUSION

As with prior annual filings, the Department must determine whether Verizon has calculated the price cap indices correctly. None of the parties challenge Verizon's calculations of the indices. The Department has reviewed the calculations contained in Verizon's filing, and finds that Verizon has calculated the indices correctly, in compliance with D.P.U. 94-50. In addition, consistent with the findings in the sections above, we find that Verizon has complied with the pricing rules and other directives in D.P.U. 94-50.

Accordingly, for the above reasons, we approve Verizon's Sixth Annual Price Cap Compliance Filing.

V. ORDER

Accordingly, after due notice and consideration, it is

ORDERED: That Verizon's Sixth Annual Price Cap Compliance Filing is hereby

APPROVED; and it is

FURTHER ORDERED: That Verizon shall comply with all directives herein.

By Order of the Department,

James Connelly, Chairman

W. Robert Keating, Commissioner

Paul B. Vasington, Commissioner

Eugene J. Sullivan, Jr., Commissioner

Deirdre K. Manning, Commissioner

Appeal as to matters of law from any final decision, order or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the Order of the Commission be modified or set aside in whole or in part.

Such petition for appeal shall be filed with the Secretary of the Commission within twenty days after the date of service of the decision, order or ruling of the Commission, or within such further time as the Commission may allow upon request filed prior to the expiration of twenty days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of said Court. (Sec. 5, Chapter 25, G.L. Ter. Ed., as most recently amended by Chapter 485 of the Acts of 1971).